



**Public Utility Commission of Texas**

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Austin, Texas 78711-3326  
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Web Site: [www.puc.state.tx.us](http://www.puc.state.tx.us)

Pat Wood, III  
Chairman

Judy Walsh  
Commissioner

Patricia A. Curran  
Commissioner

December 14, 1998

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**VIA AIRBORNE EXPRESS OVERNIGHT**

Secretary  
Office of the Secretary  
Federal Communications Commission  
The Portals  
445 Twelfth Street, S.W.  
TW-B204  
Washington, D.C. 20554

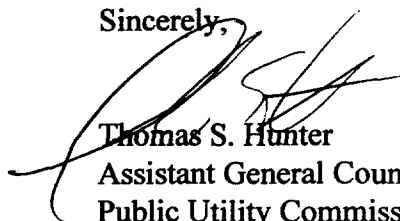
RE: EX PARTE COMMENTS--Two Copies Filed--*In the Matter of Cellular Telecommunications Industry Association (CTIA) Petition Requesting Forbearance from CMRS Number Portability Requirements*--CC Docket No. 95-116, 13 FCC Rcd 955; 1998 FCC Lexis 288, January 22, 1998.

To the Secretary:

Enclosed please find two copies of a letter from Chairman Pat Wood, III and Commissioner Judy Walsh of the Public Utility Commission of Texas (PUCT) to Chairman William Kennard in the above-referenced proceeding. A copy of this letter has also been provided to the other four FCC Commissioners. Please file this letter as an Ex Parte communication in the above-referenced docket.

Please acknowledge receipt of this filing by file-stamping the duplicate copy of this letter furnished herewith and returning same to the undersigned in the enclosed, self-addressed, stamped envelope.

Sincerely,

  
Thomas S. Hunter  
Assistant General Counsel  
Public Utility Commission of Texas  
(512) 936-7280

Enclosure

No. of Copies rec'd 0+1  
List A B C D E



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Pat Wood, III  
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December 14, 1998

**VIA AIRBORNE EXPRESS OVERNIGHT**

The Honorable William E. Kennard  
Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

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RE: Ex Parte Comments--*In the Matter of Cellular Telecommunications Industry Association (CTIA) Petition Requesting Forbearance from CMRS Number Portability Requirements*--CC Docket No. 95-116, 13 FCC Rcd 955; 1998 FCC Lexis 288, January 22, 1998.

Dear Chairman Kennard:

As you know, on December 16, 1997, the Cellular Telecommunications Industry Association (CTIA) filed a petition requesting that the Commission employ its authority under section 10 of the Communications Act of 1934, as amended, to forbear from enforcing local number portability (LNP) requirements for CMRS providers. Specifically, CTIA requested that the FCC "forbear from enforcing the June 30, 1999, implementation deadline for CMRS provider number portability at least until completion of the five-year build-out provision period for broadband personal communications services (PCS) carriers has expired."

The Public Utility Commission of Texas (PUCT) believes that this request should be denied. We are filing this letter with the Commission for two reasons. The first is to comply with the FCC's ex parte regulations. The second is to express our concerns in writing and to insure that they are included in the record in this proceeding.

The PUCT urges the FCC to deny the CTIA petition for the following reasons:

1) CTIA has already been granted one extension for implementation of LNP. In its *First Memorandum Opinion and Order on Reconsideration* in CC Docket No. 95-116, the Commission ordered that CMRS providers be required to offer service provider portability in



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the 100 largest MSAs and be able to support nationwide roaming by June 30, 1999.<sup>1</sup> In a petition filed with the FCC on November 24, 1997, CTIA requested a nine month extension of the June 30, 1999, implementation deadline.<sup>2</sup> In its *Memorandum Opinion and Order* issued on September 1, 1998, the Commission granted CTIA's request in full and extended the CMRS portability implementation deadline until March 31, 2000.<sup>3</sup> The PUCT submits that an additional five year extension for implementation of CMRS number portability is unwarranted.

2) There should be no discrimination based on technology. The precedent in area code assignment stands for the proposition that there should be no discrimination based on technology (*i.e.*, that wireless providers should not be placed at a competitive disadvantage vis-a vis wireline providers).<sup>4</sup> Some wireless providers have objected to number pooling (which requires providers to be LNP capable) on the grounds that it discriminates against them because they are not LNP capable. But in the interest of fairness and preventing competitive advantage, wireless providers should be required to meet the same deadlines as other technologies in implementing LNP, so that necessary number conservation measures can effectively go forward. Yet, the CTIA petition seeks further delay in implementing the very technology that would put the wireless industry on equal footing with the wireline industry—LNP. Wireless providers cannot have it both ways. The CTIA petition should be denied and wireless providers should be required to deploy LNP by March 31, 2000, as contemplated in the *Memorandum Opinion and Order* discussed above.

3) The requested five year delay will seriously impact implementation of number pooling. The FCC and a number of states are considering implementation of some form of number pooling (*i.e.*, thousands block pooling). Implementation of number pooling requires participating providers to be LNP capable. Thus, if wireless providers have not deployed LNP, they will be unable to participate in number pooling. In Texas, wireless providers on average account for approximately 18% of all central office codes assigned. Attached is an exhibit illustrating the percentage of NXX codes assigned to wireless providers in each Texas NPA as of June 1998. This percentage may be higher in other states. As demand for wireless service grows, the percentage of NXX codes used by wireless providers in Texas is expected to increase. A five year delay in deployment of wireless portability will remove a significant percentage of codes available for number pooling.

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<sup>1</sup> Telephone Number Portability, *First Memorandum Opinion and Order on Reconsideration*, CC Docket No. 95-116, 12 FCC Rcd 7236, 7313, paragraph 136 (*Order on Reconsideration*).

<sup>2</sup> Telephone Number Portability, CC Docket No. 95-116, Petition for Extension of Implementation Deadlines of the Cellular Telecommunications Industry Association (filed November 24, 1997) (CTIA Petition).

<sup>3</sup> Telephone Number Portability, *Memorandum Opinion and Order*, CC Docket No. 95-116, \_\_ FCC Rcd \_\_, \_\_, paragraph 1 (Issued September 1, 1998) (*Order*).

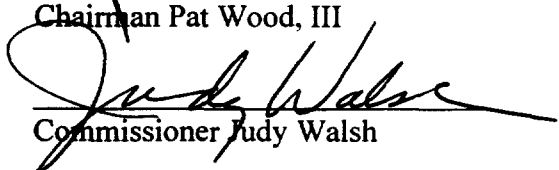
<sup>4</sup> See e.g., *Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois*, 10 FCC Rcd. 4596 (1995) (rejection of wireless overlays as anti-competitive and discriminatory).

4) The requested delay may also have detrimental effect on state and federal efforts in gathering accurate utilization and forecast data. Accurate number utilization data and forecasts are vital if the FCC and the states are to properly manage the nation's ever shrinking numbering resources. In its public notice seeking comment on the recent North American Numbering Council (NANC) Report on Number Optimization Methods, the FCC noted that "accurate utilization data and accurate forecasts are necessary to understand the scope of the current [numbering] problem; to aid in the choosing of appropriate solutions; and to assure that, in practice, selected number usage optimization measures actually provide the desired effect."<sup>5</sup> In the same notice, the FCC further observed that "reliable data are needed to establish the availability of spare numbers to determine whether pooling will optimize number usage in a particular area."<sup>6</sup> The PUCT believes that as long as wireless providers are not LNP capable, they will realize no benefits from number pooling and may thus have little, if any incentive, to provide accurate utilization and forecast data to state commissions or the FCC. Further delays in implementation of wireless portability will seriously hamper state and federal efforts to compile accurate utilization and forecast data to the detriment of customers everywhere.

We appreciate your careful consideration of these concerns.

Sincerely,

  
Chairman Pat Wood, III

  
Commissioner Judy Walsh

cc:           The Honorable Susan Ness  
              The Honorable Gloria Tristani  
              The Honorable Harold W. Furchtgott-Roth  
              The Honorable Michael K. Powell  
              Secretary of the Commission

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<sup>5</sup> Public Notice, DA-98-2265, "Common Carrier Bureau Seeks Comment on the North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Methods" at 6 (Released November 6, 1998) NSD File No. L-98-134.

<sup>6</sup> *Id.*

**PERCENT OF NXX CODES  
ASSIGNED TO WIRELESS SERVICE PROVIDERS IN TEXAS**

<b>NPA</b>	<b>Cellular</b>	<b>Pager</b>	<b>PCS</b>	<b>Total</b>	<b>98 YTD<sup>1</sup></b>	<b>Percent</b>
<b><u>210</u></b>	45	39	12	96	471	20%
<b><u>214</u></b>	76	71	13	160	496	32%
<b><u>254</u></b>	30	11	0	41	263	16%
<b><u>281</u></b>	71	59	26	156	696	22%
<b><u>402</u></b>	39	27	14	80	581	14%
<b><u>512</u></b>	74	51	20	145	697	21%
<b><u>713</u></b>	74	97	15	186	719	26%
<b><u>806</u></b>	34	7	1	42	372	11%
<b><u>817</u></b>	51	54	11	116	546	21%
<b><u>830</u></b>	14	5	3	22	232	1%
<b><u>903</u></b>	51	15	2	68	480	15%
<b><u>915</u></b>	50	20	5	75	516	15%
<b><u>940</u></b>	17	1	3	21	220	1%
<b><u>956</u></b>	60	23	6	89	263	34%
<b><u>972</u></b>	30	48	10	88	751	12%

<sup>1</sup> through June, 1998.